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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,918	12/29/2000	Hendrik Theodorus Van Der Meer	029150-113	6827

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EXAMINER

HILLERY, NATHAN

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/749,918

Applicant(s)

VAN DER MEER, HENDRIK
THEODORUS

Examiner

Nathan Hillery

Art Unit

2176

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

William J. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
8/23/2005

Continuation of 11. does NOT place the application in condition for allowance because: applicant's arguments are not persuasive. The Office stands by the broadest, most reasonable interpretation used in rejecting the claims under 35 USC 103(a). Specifically, a user selecting a template from a plurality of templates as disclosed by Daniels, Jr. et al. meets the claimed limitation of selecting a single priorly stored file of presentation instructions valid for a plurality of messages. The Office is well-aware that there might be extra and/or intervening steps involved in the system(s) and/or method(s) disclosed by Daniels, Jr. et al., however, the open-ended language claimed by Applicant falls within the scope of the disclosure of Daniels, Jr. et al. and McCauley et al. to which applicant argues. Similarly, Daniels, Jr. et al. discloses prompting a user for templates through a dialog box, which is comparable to activating a send dialogue program and selecting a file, etc. Furthermore, regarding applicant's argument(s) concerning claim 5, it should be noted that Daniels, Jr. discloses much more than is cited by Applicant (p 5, second full paragraph). Specifically, Daniels, Jr. et al. discloses that ... sends a "failed to process" or "failed to deliver" message to status/regeneration processor 118, which (depending on the users configured system, which system is configurable) may cause a physical version of the undelivered electronic mail piece to be produced by printer 104 and physical inserter 106 and delivery by physical means. In other words, a user specifies or selects one particular presentation instruction and if that fails then a different version of the file may be produced, which is comparable to selecting a presentation instruction under a particular user authorization and editing the file of presentation instructions under a different authorization as claimed in claim 5. The Office would like to reiterate that it is well-aware that there might be extra and/or intervening steps involved in the system(s) and/or method(s) disclosed by Daniels, Jr. et al., however, the open-ended language claimed by Applicant falls within the scope of the disclosure of Daniels, Jr. et al. and McCauley et al. to which applicant argues.

William L. Bashore
WILLIAM BASHORE
PRIMARY EXAMINER
8/23/2005